REMARKS

The Final Office Action mailed February 2, 2009, has been received and reviewed. Prior to the present communication, claims 1-38 were pending in the subject application. All claims stand rejected. Each of claims 1, 6, 8, 9, 11, 13, 15, 20, 22, 23, 27, 34, and 35 has been amended herein. As such, claims 1-38 remain pending. It is submitted that no new matter has been added by way of the present amendments. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

Rejections based on 35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-38 are rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent Number 5,682,728 to DeBusk et al. (hereinafter "DeBusk reference") As the DeBusk reference fails to describe, either expressly or inherently, each and every element of claims 1-38, Applicants respectfully traverse the rejection, as hereinafter set forth.

Independent claim 1, as amended hereinabove, recites a system for automatically fulfilling orders for clinically related supplies. The system includes an interface to a supply chain engine, the supply chain engine automatically generating at least one order for clinically related supplies based upon real time supply consumption data derived from documentation of at

least one clinical event generated while the clinical event is carried out. The supply consumption data including items used or consumed during the at least one clinical event. The clinical event is carried out at a clinically related site having a plurality of clinical departments. The system also includes a fulfillment engine, communicating with the interface to the supply chain engine to receive the at least one order. The fulfillment engine, upon determining the clinically related supplies are suitable for aggregation, aggregates a plurality of orders for the clinically related supplies for delivery from a vendor before triggering delivery of the clinically related supplies from the vendor. The plurality of orders are received from more than one of the plurality of clinical departments.

In contrast, the DeBusk reference, describes the management of consumable medical supplies by creating bills of material associated with care events within a clinical pathway. *See DeBusk reference* at col. 2, l. 29-37. A bill of materials representing those medical supplies "to be used" for a scheduled care event is generated and those supplies are placed into supply bundles at a number of locations and then delivered in bundled form to the end-user. *See id.* at col. 2, l. 50 to col. 3, l. 2; and col. 3, l. 34. The DeBusk reference also discloses anticipating supply usage based upon historical records relating to the frequency of occurrence of given care events at a particular facility and/or aggregated facility usage of common medical supplies over time. *See id.* at col. 2, l. 59 to col. 6, l.13.

It is respectfully submitted that the DeBusk reference fails to describe, either expressly or inherently, "automatically generating at least one order based upon real time supply consumption data derived from documentation of at least one clinical event generated while the clinical event is carried out." The DeBusk reference describes the management and procurement of supply bundles containing medical supplies "intended for use" in a future care event. *See DeBusk reference* at col. 5, l. 22-45. The number of bundles ordered during the year may be

based on historical usage data that shows how many bundles are typically used during a period of time. *See id.* at col. 2, l. 59 to col. 6, l.13. In contrast, claim 1 describes automatically generating orders to replenish used supplies (i.e., items used and/or consumed during a clinical event) by basing the order on real time supply consumption data. Basing orders on historical usage data, as described in the DeBusk reference, is not the same as automatically generating orders based on real time consumption data. Thus, the DeBusk reference does not describe "automatically generating at least one order based on real time supply consumption data."

Further, the DeBusk reference does not describe "determining the clinically related supplies are suitable for aggregation" or "aggregat[ing] a plurality of orders for the clinically related supplies for delivery from a vendor," as recited in claim 1. Claim 1 indicates that the plurality of orders are received "from more than one of the plurality of clinical departments." Thus, the system of claim 1 receives orders for clinically related supplies from multiple clinical departments within the clinically related site. The DeBusk reference describes aggregating orders from multiple vendors into a single supply bundle. *See* DeBusk reference FIG. 3 and associated description. Aggregating multiple orders from different departments to send to a single vendor is different than aggregating supplies received from multiple vendors into a single supply bundle. Thus, the DeBusk reference does not describe aggregating a plurality of orders (from more than one clinical department) for the clinically related supplies for delivery from a vendor.

As the DeBusk reference fails to describe each and every element of independent claim 1, Applicants respectfully submit that claim 1 is not anticipated by the DeBusk reference. Each of claims 2–14 depends, either directly or indirectly, from independent claim 1 and defines further patentable features. For example, claims 8, 9, and 11 various situations when clinical orders are suitable for aggregation. The situations include when the clinical orders are non-time

sensitive (claim 8), non-critical (claim 9), and subject to cost savings when ordered in batch (claim 11). As explained previously, the DeBusk reference does not describe aggregating clinical orders for a single vendor, let alone specify conditions under which the aggregation should occur. Thus, the DeBusk reference does not describe the additional patentable features of claims 8, 9, or 11. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 2-14 for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-14 is requested.

Independent claim 15, as currently amended, recites a method for automatically fulfilling orders for clinically related supplies. The method includes tracking a clinical supply inventory at a clinically related site, generating a pick ticket including a selection of clinically related supplies for a clinical event, and retrieving the clinically related supplies from storage. The method also includes consuming the clinically related supplies during the clinical event and updating a patient supply record in real time to generate real time supply consumption data indicating the clinically related supplies were consumed in the clinical event. The method also includes automatically generating at least one order for clinically related supplies based on the real time supply consumption data derived from documentation of the clinical event generated while the clinical event is carried out. The supply consumption data includes items used or consumed during the at least one clinical event at the clinically related site. The method further includes triggering delivery of clinically related supplies based at least upon the at least one order for clinically related supplies.

For reasons substantially similar to those given with reference to claim 1, the DeBusk reference fails to describe, either expressly or inherently, "updating a patient supply record in real time to generate real time supply consumption data indicating the clinically related supplies were consumed in the clinical event" or "automatically generating at least one order for

clinically related supplies based on the real time supply consumption data," as recited in claim 15. Thus, Applicants respectfully submit that the DeBusk reference fails to describe each and every element of independent claim 15. Therefore, the DeBusk reference does not anticipate claim 15. Each of claims 16-26 depends, either directly or indirectly, from independent claim 15. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 16-26 at least by virtue of their dependency from allowable claim 15 and because of additional patentable features that are not described in the DeBusk reference. For example, the DeBusk reference does not describe "aggregating the orders for clinically related supplies for delivery from a single vendor," as recited by claim 22 for reasons explained previously with reference to claim 1. Further, the DeBusk reference does not describe a method wherein "clinically related supplies are aggregated for a plurality of clinical departments within the clinical site," as recited in claim 23 for reasons explained previously with reference to claim 1.. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 15-26 is requested.

As presently amended, independent claim 27 recites a method for generating a set of clinically related supplies generated for delivery. The method includes automatically generating at least one order for clinically related supplies based upon real time supply consumption data derived from documentation of at least one clinical event generated while the clinical event is carried out. The supply consumption data including items used or consumed during the at least one clinical event at a clinically related site. The method includes triggering delivery of clinically related supplies based at least upon the at least one order for clinically related supplies.

For reasons substantially similar to those given with reference to claim 1, the DeBusk reference fails to describe, either expressly or inherently, automatically generating at least one order for clinically related supplies based upon real time supply consumption data

derived from documentation of at least one clinical event generated while the clinical event is carried out. Thus, Applicants respectfully submit that the DeBusk reference fails describe each and every element of independent claim 27. Therefore, the DeBusk reference does not anticipate claim 27. Each of claims 28-38 depends, either directly or indirectly, from independent claim 27. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 28-38, by virtue of their dependency from allowable claim 27 and because of additional patentable features that are not described in the DeBusk reference. For example, the DeBusk reference does not describe "aggregating the orders for clinically related supplies for delivery from a single vendor," as recited by claim 34 for reasons explained previously with reference to claim 1. Further, the DeBusk reference does not describe a method wherein "clinically related supplies are aggregated for a plurality of clinical departments within the clinical site," as recited in claim 35 for reasons explained previously with reference to claim 1. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 27-38 is respectfully requested.

CONCLUSION

For at least the reasons stated above, each of claims 1-38 is believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816.474-6550 or via email at johoward@shb.com (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

The fee associated with an RCE is submitted herewith. It is believed that no additional fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number CRNI.111423.

Respectfully submitted,

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